

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Facsimile (702) 949-8321
Telephone (702) 949-8320

Robert M. Charles, Jr. NV State Bar No. 006593
Email: rcharles@lrlaw.com
John Hinderaker AZ State Bar No. 018024
Email: jhinderaker@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

Debtor.

Case No. BK-S-06-10725-LBR

CHAPTER 11

**NOTICE OF HEARING RE
OMNIBUS OBJECTION OF USACM
TRUST TO PROOFS OF CLAIM
BASED UPON INVESTMENT IN
CABERNET HIGHLANDS LOAN**

Date of Hearing: August 30, 2011

Time of Hearing: 10:30 a.m.

Estimated Time For Hearing: 10 minutes

**THE USACM LIQUIDATING TRUST IS OBJECTING TO THE CLAIM
THAT YOU FILED. THE USACM TRUST SEEKS TO ALLOW IN PART AND
DISALLOW IN PART YOUR CLAIM TO THE EXTENT IT IS BASED UPON AN
INVESTMENT IN THE CABERNET HIGHLANDS LOAN THERE IS
DIVERTED PRINCIPAL ASSOCIATED WITH THE CABERNET HIGHLANDS
LOANS, AND AS A THRESHOLD MATTER, THE TRUST REQUESTS AN
ORDER ALLOWING ALL DIVERTED PRINCIPAL CLAIMS. AS TO THE
REMAINDER OF EACH CABERNET HIGHLANDS CLAIM, THE TRUST
REQUESTS AN ORDER ALLOWING 20% OF THE CLAIM AND
DISALLOWING THE REMAINING 80% OF THE CLAIM.**

1 **THIS OBJECTION WILL NOT IMPACT YOUR CLAIM TO THE**
2 **EXTENT IT IS BASED UPON AN INVESTMENT IN A DIFFERENT LOAN.**

3 **PLEASE DO NOT CONTACT THE CLERK OF THE BANKRUPTCY**
4 **COURT TO DISCUSS THE MERITS OF YOUR CLAIM.** QUESTIONS
5 **REGARDING THE AMOUNT OF A CLAIM OR THE FILING OF A CLAIM**
6 **SHOULD BE DIRECTED TO BRANT FYLLING AT SIERRA GROUP**
7 **CONSULTING, LLC (602-424-7009) OR TO UNDERSIGNED COUNSEL, JOHN**
8 **HINDERAKER (520-629-4430).**

9 **NOTICE IS HEREBY GIVEN** that the USACM Liquidating Trust, by and
10 through its counsel, has filed its Omnibus Objections to Proofs of Claim Based in Whole
11 or in Part Upon Investment in the Cabernet Highlands Loan (with Certificate of Service)
12 (the "Objection"). Your Proof of Claim number and other information regarding your
13 claim is provided in **Exhibit A**, attached to the Objection. The USACM Liquidating Trust
14 has requested that this Court enter an order, pursuant to section 502 of title 11 of the
15 United States Code (the "Bankruptcy Code") and Rule 3007 of the Federal Rules of
16 Bankruptcy Procedure (the "Bankruptcy Rules"), allowing all diverted principal claims.
17 As to the remainder of each Claim, the Trust requests an order allowing 20% of the claim
18 and disallowing the remaining 80% of the Proof of Claim to the extent it is based upon an
19 investment in the Cabernet Highlands Loan. The Objection will not impact your Claim to
20 the extent it is based upon an investment in a different loan.

21 **NOTICE IS FURTHER GIVEN** that the hearing on the Objection will be held
22 before the Honorable Linda B. Riegle, U.S. Bankruptcy Court Judge in the Foley Federal
23 Building, 300 Las Vegas Blvd. South, 3rd Floor, Courtroom No. 1, Las Vegas, Nevada on
24 **August 30, 2011, at the hour of 10:30 a.m.**

25 **NOTICE IS FURTHER GIVEN THAT THE HEARING SET ON AUGUST**
26 **30, 2011 WILL BE HELD FOR THE PURPOSE OF STATUS CHECKS AND**

1 **SCHEDULING EVIDENTIARY HEARINGS ONLY. NO ARGUMENTS WILL BE**
2 **HEARD ON THAT DATE.**

3 **NOTICE IS FURTHER GIVEN** that pursuant to Local Rule 9014(d), any
4 response to the objection must be filed and service must be completed no later than
5 **fourteen (14) days** preceding the hearing date. The opposition must set forth all relevant
6 facts and any relevant legal authority.

7 If you object to the relief requested, you *must* file a **WRITTEN** response to this
8 pleading with the Court. You *must* also serve your written response on the person who
9 sent you this notice.

10 If you do not file a written response with the Court, or if you do not serve your
11 written response on the person who sent you this notice, then:

- 12 • The Court may *refuse to allow you to speak* at the scheduled hearing; and
- 13 • The Court may *rule against you* and sustain the objection without formally
14 calling the matter at the hearing.

15 Dated: July 25, 2011.

16 LEWIS AND ROCA LLP

17 By s/John Hinderaker (AZ 18024)
18 Robert M. Charles, Jr., NV 6593
19 John Hinderaker, AZ 18024 (*pro hac vice*)
20 3993 Howard Hughes Parkway, Suite 600
21 Las Vegas, Nevada 89169
22 E-mail: JHinderaker@lrlaw.com
23 *Attorneys for the USACM Liquidating Trust*

20 Copy of the foregoing mailed by first
21 class postage prepaid U.S. Mail on
22 July 25, 2011 to all parties listed on
23 Exhibit A attached to the objection.

24 LEWIS AND ROCA LLP

24 s/ Matt Burns
25 Matt Burns
26